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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/031,981 | 06/23/2002 | Hans-Jorg Feigel | AP9678 | 1186 |

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| EXAMINER |
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NGUYEN, XUAN LAN T

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| ART UNIT | PAPER NUMBER |
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3683

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,981

Applicant(s)

FEIGEL, HANS-JORG

Examiner

Lan Nguyen

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-21 is/are pending in the application.
- 4a) Of the above claim(s) 12,14-16,20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11,13 and 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of species D in Paper No. 10 is acknowledged. The traversal is on the ground(s) that all the claims include a brake pressure generator and a pump coupled to a hydraulic chamber of the pressure generator. The claims, the specification and the drawings show different embodiments with distinct structures. For example, the hydraulic chamber of species A is the master cylinder. In the elected species D, the hydraulic chamber is of a separated cylinder being coupled to the master cylinder of a tandem type with two chambers, as illustrated and disclosed. The requirement is still deemed proper and is therefore made FINAL. Claim 1 is generic. Upon further consideration, it is found that claim 13 reads on the elected species D while claim 20 does not, due to the feature "permits a return flow of pressure fluid from the wheel brakes into the pressure fluid supply reservoir, by way of a master cylinder chamber, in one operating position." This feature is neither illustrated nor described in the elected species D. The claims being examined are 11, 13 and 17-19. Claims 12, 14-16, 20 and 21 are being withdrawn for pertaining to non-elected species.

Specification

2. The abstract of the disclosure is objected to because it contains legalese such as "means" and "said" in the last 4 lines. Correction is required. See MPEP § 608.01(b).
3. The substitute specification has been approved and entered.

Art Unit: 3683

4. The disclosure is objected to because of the following informalities:

- Page 10, lines 17, "18" should be --17--.
- Page 14, lines 5 and 6, the portion "which ... 64" is pertaining to figure 6, not figure 5.
- Page 14, line 11, the portion "the central valve 65" is pertaining to figure 6, not figure 5.
- Page 14, line 19, "second line 7" should be --first line 7--.
- Page 16, line 10, "5" should be --65--.
- Through out the specification, "ABS", "TCS", and "ESP" are mentioned. The Examiner interprets these as "Anti-lock Braking System", "Traction Control System" and "Electronic Stability Program". If these interpretations are not correct, it is advised that the specification be amended to spell out these abbreviations.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 11, 13 and 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In claim 11, line 8, "a set of wheel brakes" should be --said set of wheel brakes--.

- In claim 11, line 11, "force/travel characteristic curve" renders claim 11 indefinite.
- In claim 11, line 11, "an actuating force" should be --said actuating force--.
- In claim 19, line 9, "an elastic device" should be --said elastic device--.
- In claim 19, lines 9 and 10, "the line" is unclear of which line is being claimed. It is interpreted as -- the hydraulic line which connects said one master brake cylinder chamber to said second piston chamber --.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as obvious over Gabrisch (DE 2903532 A1). In view of Schiel et al.

Gabrisch shows a hydraulic brake system, as in the present invention, comprising: a hydraulic pressure generator unit 1 which is operable by introducing an actuating force by way of an actuating device 2, wherein said brake pressure generator includes a first hydraulic chamber, not shown but inherent in the master cylinder 1, having a volume which decreases when the brake pressure generator unit is actuated, out of which a pressure fluid volume is displaced due to the volume decrease and to which wheel brakes 3 are connected by way of a first hydraulic connection 5, a pump 4

coupled to said first hydraulic chamber for delivering the pressure fluid volume into said set of wheel brakes, wherein said pressure fluid volume is displaced out of the first hydraulic chamber due to the volume decrease, see Abstract and the figure. Gabrisch does not disclose the first hydraulic chamber includes an elastic device disposed therein, wherein said elastic device determines a force/travel characteristic curve in the actuating device when an actuating force is introduced. The feature "said elastic device determines a force/travel characteristic curve in the actuating device when an actuating force is introduced" is broadly interpreted as there is a correspondence between the pedal and the spring, for example, when the pedal is depressed, the spring would be compressed. Schiel et al. teach a hydraulic pressure generator 2 with a hydraulic chamber 29 including an elastic device, not numbered but shown as a coil spring, wherein when the pedal 1 is pressed, the spring would be compressed in order to return the pedal to its original position, as shown in figure 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed a hydraulic pressure generator unit with an elastic device located in the hydraulic chamber such as taught by Schiel in the brake system of Gabrisch in order to ensure the return of the brake pedal to its original position after being actuated for proper operation of the brake system as taught by Schiel.

Re: claim 13, Gabrisch further shows a second hydraulic connection, in parallel with the first connection 5, is disposed between the first hydraulic chamber and the wheel brakes 3 and houses a control valve 6.

Allowable Subject Matter

9. Claims 17-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Holzman et al. shows a brake system with modulators 10, 11 and 12.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347. The examiner can normally be reached on M-F, 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

Application/Control Number: 10/031,981
Art Unit: 3683

Page 7

Lan Nguyen
Patent Examiner
A. U. 3683

Lan Nguyen